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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,741	01/04/2002	David Betz	GENSP028	3598
22434	7590	08/09/2007		
BEYER WEAVER LLP P.O. BOX 70250 OAKLAND, CA 94612-0250			EXAMINER REKSTAD, ERICK J	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 08/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/040,741	Applicant(s) BETZ ET AL.	
	Examiner Erick Rekstad	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte. Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,9,21,22,24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,9,21,22,24 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/13/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a Final Rejection for Application no. 10/040,741 in response to the amendment filed on May 23, 2007.

Response to Arguments

Applicant's arguments filed May 23, 2007 have been fully considered but they are not persuasive. The Applicant argues the combination on US Patent 5,600,775 (King) with US Patent 5,457,478 (Frank) does not teach the new limitations required by the amended claims. The Examiner respectfully disagrees. As shown below the new limitations are not supported by the specification. Further, King teaches the prior art of altering the original product in order to provide a viewing by others (Col 1 Lines 39-46). Frank teaches a means of providing an altered version of the video. As best understood by the Examiner, the combination of the teaching of King and Frank satisfy the requirements of providing an altered original product as the Applicant's specification is silent on such a feature.

Drawings

The drawings are objected to because Figure 8B has an arrow going from 820 to 885 and an arrow going from 825 to 880. Based on the specification, Page 23 Line 28- Page 24 Line 6, the arrows should be going from 885 to 820 and 880 to 825. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an

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amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2, 4, 9, 21, 22, 24 and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The amendment to independent claims 1 and 21 require an apparatus and method for creating a video presentation. Specifically, claim 1 now requires,

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A video presentation tool kit for creating a video presentation from a first plurality of original video frames; comprising:

a user activated designation tool for designating at least a portion of at least one of the first plurality of the original video frames;

an annotator tool arranged to generate a set of op code instructions used to permanently modify video data associated with the designated original video frame portion;

a processor arranged to receive and execute the op-code instructions wherein the executed op-code instructions cause the processor to permanently modify the original video data associated with the designated original video frame portion and replace the designated original video frame portion therewith; and

a commentary generator used to generate a portable commentary formed of at least the op-code instructions wherein the portable commentary can be used by a second processor to create a second video presentation using a second plurality of original video frames that are different than the first plurality of original video frames.

Support for this amendment is pointed to page 16-22. These pages lack a description for the use of op code instructions to permanently modify video data and a commentary generator as claimed. As best understood by the Examiner, the specification supports a Viddie montage (110, Fig. 5A) which is created by providing op-code instructions. The creation of this op-code is preformed as depicted in Figures 8A and 8b (Page 22 Line 16-Page 24 Line 12). The specification appears to be void of a teaching to permanently modifying and replacing the designated original video frame portions as claimed. Further, the specification appears to be void of a teaching of a commentary generator in addition to an annotator tool and the use of a second processor to create a second video presentation using a second plurality of original video frames as claimed.

Claim 21 is the method of claim 1 and therefore also contains the features which are not described in the specification. Claims 2, 4, 9, 22, 24 and 26 are dependent either claim 1 or 21 and therefore are also rejected under the same grounds.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 9, 21, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,600,775 to King et al. in view of US Patent 5,457,478 to Frank.

[claims 1 and 21]

As best understood by the Examiner, in view of the 112 rejection, King and Frank teach the requirements of the claims as shown below.

In Figure 1, King teaches a video presentation tool kit and method for creating an annotated video presentation formed of a number of linearly associated video frames; comprising:

A user activated designation tool for designating at least a portion of at least one of the number of video frames (Col 4 Lines 20-57) Note: the annotation is for the video frame which satisfies the at least a portion of the frame. King further states providing an annotation at a specific location in the frame which provides support for portion smaller than a whole frame (Col 2 Lines 54-58 and Col 9 Lines 41-44);

An annotator tool arranged to generate a set of op code instructions used to annotate the designated video frame portion (25 Fig 1, Col 4 Lines 44-57, Col 5 Lines 26-31, Col 6 Lines 8-14, Col 9 Lines 11-15); and

A processor arranged to receive the op-code instructions and execute the received op-code instructions wherein the executed op-code instructions cause the processor to modify the video frame information corresponding to the designated video frame portion (10 Fig. 1, Col 4 Lines 1-9, Col 6 Line 51-Col 7 Line 13);

King further teaches the prior art of altering the original product in order to provided an altered product for viewing (Col 1 Lines 39-46).

An authoring tool arranged to provide additional effects to enhance the video content modifications of the designated video frame portion, wherein the executed op-code instructions can be used to modify any appropriate video frame information and are thereby independent of any particular video frame information (Col 5 Lines 32-52). Once all the annotations are created an annotation file (commentary) is created which provides a portable means of transporting the annotations to others for viewing of annotated video (Col 5 Line 62-Col 6 Line 7, Col 6 Lines 19-29 and Col 12 Lines 54-59, Fig. 9).

King teaches the benefit of the system is the ability to provide annotation editing without having to permanently modify the original video (Col 1 Lines 36-56, Col 2 Lines 2-15). King does teach the combining of the annotations and video data for display (Col 3 Lines 2-8). As noted above, King further teaches the prior art of providing an altered original product. King does not teach permanently modifying the video frame information and providing a portable commentary to create a second video.

As shown in Figure 1, Frank teaches an editing system (20) which is used to enhance incoming video images and storing the enhanced video images (Col 2 Lines

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18-21 and Lines 29-43). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of King and Frank in order to provide a permanently altered original video once certain annotations are approved. It would have further been obvious to perform further annotations using the techniques of King in order to further edit the video and provide annotation files to other editors as taught by King.

[claims 4 and 24]

Further, King teaches the designation tool is a pointer icon (27 Fig 1, Col 4 Lines 64-65).

[claims 9 and 26]

As shown in Figure 1, King further teaches the user activated designation tool is activated by way of a user provided command via an input device selected from a group consisting of a graphics tablet, a keyboard, a joystick and a microphone as required by claim 9 (17-19 Fig 1, Col 4 Lines 15-16, Col 4 Line 58-Col 5 Line 6).

Claims 2 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over King and Frank in view of Chung and US Patent 6,144,375 to Jain et al.

[claims 2, 3, 22 and 23]

As shown above, King and Frank teach the tool kit of claim 1. King further teaches the additional effects include a verbal or textual commentary effect, frame freeze effect (pause), and frame drawing effect (Col 5 Lines 7-18 and 32-52, Fig. 2). King does not teach the zoom effect or the color correction effect.

Chung teaches the use of providing the user the option to change Viewing Angle and Color Adjust (Col 3 Line 45-Col 4 Line 6, Figs 2 and 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the vista point commands (chapter jump and viewing angle) of Chung with the system of King and Frank in order to provide more options to the viewer while watching a digital video. Though Chung teaches an angle effect, Chung does not teach the zoom effect.

Jain teaches the highlight creation system in which the user can zoom in on an image (406) and display the zoomed image along with media related to the image in a separate window (402) as required by claim 3 (Col 16 Lines 39-43, Col 20 Lines 6-11, Col 24 Lines 6-24 and 58-61). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the zoom feature of Jain with the system of King, Frank and Chung in order to provide a user with a close up image of a scene along with audio commentary as taught by Jain.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick Rekstad whose telephone number is 571-272-7338. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Erick Rekstad

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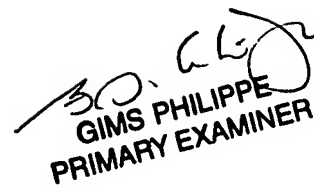
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Examiner

AU 2621

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A handwritten signature in black ink, appearing to be 'ER' or similar, located to the right of the examiner's contact information.A handwritten signature in black ink, appearing to be 'GIMS PHILIPPE', is written over a rectangular stamp. The stamp contains the text 'GIMS PHILIPPE' and 'PRIMARY EXAMINER' in bold, capital letters.